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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/056,679	01/24/2002	Frank J. Graczyk	47176-00687	9991
30223	7590	01/05/2005		
JENKENS & GILCHRIST, P.C. 225 WEST WASHINGTON SUITE 2600 CHICAGO, IL 60606			EXAMINER LEE, BENNY T	
			ART UNIT	PAPER NUMBER
			2817	

DATE MAILED: 01/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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ARTIST

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☐ This application has been examined ☒ Responsive to communication filed on 28 Oct 2009 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire Three (3) month(s), Days from the date of this letter. Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1, 3-14, 16, 17, 19-56 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☐ Claims _____ have been cancelled.

3. ☒ Claims 14, 16, 56 are allowed.

4. ☒ Claims 1, 3, 6-8; 9, 13; 17, 19, 22-24; 25-36; 37-47, 49, 50; 51-55 are rejected.

5. ☒ Claims 4, 5; 11, 12; 20, 21; 48 are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. _____, filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

SN 56679

U.S. GPO: 1990-259-282

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A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 28 October 2004 has been entered.

Since applicants' RCE request of 28 October 2004 did not explicitly specify entry of the contents of the amendment after final filed 30 August 2004, which were denied entry as indicated by the Advisory action of 28 September 2004, the amendments to the specification & drawings presented in that amendment, remain un-entered and accordingly the objections thereto, as set forth below, remain pending:

The disclosure is objected to because of the following informalities: In the replacement paragraphs to page 8, line 9 & page 8, line 11, note that ""3-3A" & "5-5A" should be rewritten as --3, 3A-- & --5, 5A--, respectively. In the replacement paragraph to page 10, line 9, last two lines, note that "... sought to attach the waveguide to" should be rephrased for grammatical correctness. In the replacement paragraph to page 16, line 12, fourth line therein, note that "FIGS." should be correctly written as --FIG.--. Appropriate correction is required.

The drawings are objected to because in Fig. 8C, reference label --188-- still needs to be provided such as to be consistent with the Fig. 8C description at page 20, line 17 of the specification. Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as

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“amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claims 25-36; 51-54 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 25, note that the amended claim recites “a plurality of waveguide flanges”. However, the claim appears to define that the “plurality of waveguide flanges” is an integral part of the claimed invention, which is contrary to the selection of one of the flanges to be interconnected with the waveguide, as disclosed. Clarification is needed.

In claim 51, should a positive step of --selecting-- one of the “plurality of waveguide flanges” be provided to properly define a critical step of the method?

The following claim has been found objectionable for reasons set forth below:

In claim 43, line 3, note that “formed” should be rewritten as --disposed-- such as to be consistent with like changes made in other claims.

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3, 6-8; 9, 10, 13; 17, 19, 22-24; 25-27, 29-33, 35, 36; 37-40, 42-47, 49, 50 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Floyd, Jr (of record) for reasons of record.

Claims 28; 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Floyd, Jr in view of Saad ('959), both of record for reasons of record.

Applicant's arguments filed 28 October 2004 have been fully considered but they are not persuasive.

Applicants' have argued that Floyd, Jr fails to disclose "a plurality of different flange members or a clamping member that has a flange coupling interface configured to mate with any different standard flange interface". Moreover, it has been emphasized that the "single flange" is "chosen from a library of different flanges" as positively recited in claims 1, 17 and that the single flange in Floyd, Jr fails to meet such a limitation. Additionally, it has been argued that the single flange in Floyd, Jr does not constitute a "flange coupling interface" of the "adaptor" and the single flange can not be "configured to mate with any of the standard flange interfaces in the library" (i.e. the single flange in Floyd, Jr is not capable of mating with different flanges), even in the "final product" of the respective apparatus claims 1, 17, 37. Furthermore, with respect to claims 25, 51, 37 & 9, it has been argued that the single flange in Floyd, Jr fail to disclose any "common internal mating configuration" since it only pertains to a single flange. Furthermore, with respect to the obviousness combination of Floyd, Jr and Saad, it has been argued that the limitation of "the outer surface is adapted to engage said generally common internal mating

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configuration of said waveguide flanges” has not been met by Floyd, Jr and that Saad does not make up for the deficiencies in Floyd, Jr.

Contrary to applicants’ assertion, it should be noted that Floyd, Jr does indeed meet the limitations recited in the above noted claims. It should be noted that, for example, claim 1 calls for “a (single) flange selected from said library of flanges ...”. Such a recitation has been construed by the examiner as being directed to the final product, which must include “a single flange” (i.e. there can not be plural flanges in the final product). The recitation “selected from a library of flanges” appears to be a method step (i.e. selecting) limitation which, as known to those of ordinary skill in the art, is not nominally given any patentable weight when evaluating a claim directed to a final product, irrespective of whether “a library of flanges ...” is or is not positively recited. In other words, if the final product, as claimed, is the same as that found in the prior art, then such claimed invention is deemed met by the prior art irrespective of the way (i.e. by a particular method or process) that a final product was manufactured. Contrary to applicants’ assertion, note that the claimed invention, as recited, does not require the adaptor of the final product to be “configured to mate with a plurality of flanges”. Rather, the claimed recitation requires the “coupling flange interface” (i.e. adaptor) to be “configured to mate with any of a plurality of flange interfaces”. Note that the critical limitation of this recitation is “... any of a plurality”, which has been construed by the examiner as meaning --any one -- of the “plurality of flange interfaces”. Accordingly, in that sense, the single flange interface adaptor disclosed by Floyd, Jr properly meets the “any (one)” limitation recited, since the particular flange used in the final product does indeed “configure to mate” with a particular one flange or “any” one of the “plurality of flange interfaces”, thereby meeting this aspect of the claimed invention. With

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respect to the “common internal mating configuration”, such a configuration is inherently present with respect to what ever flange is attached to the adapter. As pointed out above, it is again emphasized that in the final product, the flange, as disclosed in Floyd, Jr, is clearly shown as being capable of mating with the adaptor, irrespective of how such a flange came to be a part of the final product disclosed in Floyd, Jr. Furthermore, it should be noted that, as described in the above rejection, the use of collar (30) and the threaded fasteners (40) in Floyd, Jr collectively functions as a clamping member. As for the rejection of Floyd, Jr and Saad, by applicants’ own admission, Floyd, Jr only discloses that an adaptor “includes a surface that is adapted to a particular surface of one waveguide flange”. Again, as pointed out in the preceding rebuttal, any (one) flange interface adaptor used in Floyd, Jr, includes a “common internal mating configuration” and thus a corresponding outer surface of the single adaptor in Floyd, Jr does indeed provide mating with such a configuration, thereby meeting this aspect of the claimed invention.

Claims 51-55 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action.

Claim 34 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.


Claims 4, 5; 11, 12; 20, 21; 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 14, 16; 56 are allowable over the prior art of record.

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Any inquiry concerning this communication should be directed to Benny Lee at
telephone number 571 272 1764.

B. Lee


BENNY T. LEE
PRIMARY EXAMINER
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